

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1, 6 and 11 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1, 3-6, 8-11, and 13-15 are now pending in this application.

Rejections under 35 U.S.C. § 101

Claims 1, 3-6, 8-11 and 13-15 were rejected under 35 USC 101 as being directed to non-statutory subject matter.

The claims have been amended to clarify that the data is received via a receiver unit, and thus is tied to a particular machine and statutory under 35 USC 101.

Rejections under 35 U.S.C. § 112, second paragraph

Claims 1, 3-6, 8-11 and 13-15 were rejected under 35 USC 112, second paragraph, for being indefinite. Amendments have been made to the claims to obviate this rejection.

Rejections under 35 U.S.C. § 103

Claims 1, 3-6, 8-11, and 13-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,901,381 to Brown et al. ("Brown") in view of U.S. Patent No. 5,893,076 to Hafner et al. ("Hafner"). Applicants respectfully traverse this rejection for at least the following reasons.

Independent claim 1, with corresponding features in independent claims 6 and 7, recites: "calculating by one or more computers a variance between the amount of the material

sold to the store and the amount of the material that should have been used based on the recipe for the amount of the goods sold.” Thus, the method of claim 1 is directed to solving, via determining the variance, the problems arising from the manual production of a good according to a recipe using one or multiple materials, where the recipe is not being followed accurately. This failure to follow a recipe may be due to a number of reasons such as turnover of employees, or a store owner deciding to skimp on some ingredients to temporarily increase his/her profits, which may ultimately have a negative impact on the brand. Brown and Hafner fail to disclose the above recited feature of claim 1.

Brown discloses an inventory system for dining cars on a train. The Brown system includes an inventory adjust module 74. The module 74 monitors the depletion of inventory stocked on a train during a trip (col. 11, lines 15-19). The module takes into account the ingredients or recipes of an item when calculating the available items for sale (col. 11, lines 20-22). When an item is sold, the ingredients associated with the sold item are deducted from the inventory (col. 11, lines 55-59).

Brown, however, fails to disclose the feature of claim 1 of : “calculating by one or more computers a variance between the amount of the material sold to the store and the amount of the material that should have been used based on the recipe for the amount of the goods sold.” That is, Brown is not concerned with the problems arising where the recipe is not being followed accurately, and does not disclose calculating a variance between the amount of material sold to the store and the amount of the material that should have been used based on the recipe. Brown does not monitor whether or not a recipe is being followed accurately, by determining the recited variance, but merely presumes the recipe is be accurately followed.

Hafner was cited for other features of the claims, but fails to cure the deficiencies of Brown.

In sum, neither Brown nor Hafner recognize the problem of not following a recipe or provide a solution to this problem. The calculated variance as claimed is between an amount of a component material sold to and presumably actually used by a store, and the amount of the material that should have been used based on the recipe. Neither Brown nor Hafner suggest this feature as claimed.

The dependent claims are patentable for at least the same reasons as their respective independent claims, as well as for further patentable features recited therein.

In view of the foregoing amendments and remarks, reconsideration and allowance of the application is respectfully solicited.

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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